

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

E) REMARKS

This Response is filed in response to the Final Office Action dated April 7, 2004.

Upon entry of this Response, claims 44-80 will be pending in the Application.

In the outstanding Office Action, the Examiner rejected claims 44-80 under 35 U.S.C. 102(e) as being anticipated by Drysdale et al. (U.S. Patent Application Publication No. 2003/0021242).

Rejection under 35 U.S.C. 102

The Examiner rejected claims 44-80 under 35 U.S.C. 102(e) as being anticipated by Drysdale et al. (U.S. Patent Application Publication No. 2003/0021242), hereinafter referred to as "Drysdale."

Specifically, the Examiner stated that

As per claim 44 and 68, Drysdale et al teach a system (*facility communication system, fig 1*) for providing personalized information (*targeted electronic communication*) to a user (*user, 22*) in a commercial establishment (*commercial establishment, fig 1*), the system comprising at least one database (*storage location 42*) storing information related to a user, a portable display unit (*portable wireless device, 12*) operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver (*transceiver device 14*) at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment (*see figs 1, paragraphs 0025-0032*), a location tracking system (*sensing device 20*) to determine (*sense*) a location (*approximate distance*) of the portable display unit in a commercial establishment (*see figs 1, paragraphs 0026-0027*), a server computer (*communication system, 18*), the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information (*user specific information 40*) for a user in a commercial establishment based on the location (*proximity*) of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see paragraphs 0031, 0032*).

Applicants respectfully traverse the rejection of claims 44-80 under 35 U.S.C. § 102(e).

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

Drysdale, as understood, is directed to a method and system for providing a targeted electronic communication to a personal wireless device user when the personal wireless device enters the proximity of a commercial facility. The method includes the steps of storing user specific information in a storage location, providing the personal wireless device with a transceiver device, recognizing the presence of the personal wireless device transceiver when the personal wireless device is within a predetermined distance from the facility communication system, sending a request for user specific information from the facility communication system to the personal wireless device, retrieving the user specific information, sending the user specific information from the personal wireless device to the facility communication system, comparing the user specific information to predetermined criteria and sending a targeted electronic communication (coupon or advertisement) to the personal wireless device corresponding to the user specific information.

In contrast, independent claim 44 recites a system for providing personalized information to a user in a commercial establishment, the system comprising: at least one database storing information related to a user; a portable display unit operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver, at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment; a location tracking system to determine a location of the portable display unit in a commercial establishment; a server computer, the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information for a user in a commercial establishment based on the location of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit.

Independent claim 68 recites a method of providing personalized information to a user in a commercial establishment, comprising the steps of: storing information related to a user in at least one database; determining a location of a user in a commercial establishment with a

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

location tracking system; generating personalized information for a user in a commercial establishment based on the location of a user in a commercial establishment and the information related to a user stored in the at least one database; and transmitting the generated personalized information to a portable display unit operated by a user in a commercial establishment, the portable display unit having a transceiver, at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display the personalized information to a user in a commercial establishment.

To begin, the examiner is reminded that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See Manual of Patent Examining Procedure, 8th Edition (MPEP), Section 2131.

Several of the features recited by Applicant in independent claims 44 and 68 are not taught or suggested by Drysdale. First, Drysdale does not teach or suggest that the portable display unit has a unique identifier or is assigned a unique identifying signal as recited in independent claims 44 and 68. The personal wireless device in Drysdale does not have a unique identifier and only requires a transceiver that is recognizable by the sensor device. See Drysdale, paragraph 0026, lines 5-8. After the transceiver is recognized, a "handshaking" process is commenced and which, as described, does not involve the use of a unique identifier. See Drysdale, paragraph 0027, lines 9-19. Thus, since Drysdale does not disclose that the personal wireless device has a unique identifier, only a transceiver that can probably be used in multiple wireless devices, Applicant submits that Drysdale cannot anticipate Applicant's independent claims 44 and 68.

Next, Drysdale does not teach or suggest a location tracking system or determining the location of a user as recited by Applicant in independent claims 44 and 68. The system in Drysdale does not determine the location of the user or the user's corresponding personal wireless device, only when the personal wireless device is a predetermined distance from the communication system. See Drysdale, paragraph 0026, lines 5-10. As such, the system in Drysdale is not able to determine where the user/personal wireless device is located with respect

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

to the communication system, only that the user/personal wireless device is within the predetermined distance. This is in stark contrast to the present invention as recited in independent claims 44 and 68, which can determine the location (position) of the user/portable display unit in a commercial establishment. (Emphasis added.) The system in Drysdale cannot determine the location of a user in the facility, only that the user has entered the facility. Once, the user has entered the facility, the system in Drysdale is not able to determine where in the facility that the user is located. Furthermore, the predetermined distance can be from 0m to 1500m. See Drysdale, paragraph 0026, lines 11-12. At the disclosed distances, the user/personal wireless device in Drysdale can be located in almost infinite number of different locations or positions and still communicate with the communication system.

The Examiner has attempted to characterize the sensing device (20) in Drysdale as being a location tracking system and states that the sensing device can sense an approximate distance of the personal wireless device. Applicant respectfully disagrees with the Examiner's characterization. The sensing device in Drysdale cannot determine an approximate distance of the personal wireless device, only that the personal wireless device has entered its range of coverage. Further, even if the sensing device could determine a distance, the sensing device is not able to determine where in a 360 degree circumference surrounding the sensing device that the personal wireless device is located. Thus, since Drysdale does not disclose a location tracking system or determining the location of a user, Applicant submits that Drysdale cannot anticipate Applicant's independent claims 44 and 68.

Finally, Drysdale does not teach or suggest generating personalized information for a user in a commercial establishment based on the location of a user in a commercial establishment and the information related to a user stored in the at least one database as recited by Applicant in independent claims 44 and 68. The system in Drysdale, as discussed above, compares user specific information to predetermined criteria and then sends an electronic communication corresponding to the user specific information. See Drysdale, paragraph 0032, lines 8-15. Nowhere in Drysdale is it discussed that the user's location in the facility is used to determine the information to send to the user. A primary reason for this is that the system in Drysdale cannot determine the location of the user. The sensing device and transceiver combination in Drysdale is used to determine when to send an electronic communication and not to determine

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

what information to send. The Examiner is asked to cite the specific passage in Drysdale that discusses determining what information to send to the user in response to the location of the user. Thus, since Drysdale does not disclose generating personalized information based on the location of the user, Applicant submits that Drysdale cannot anticipate Applicant's independent claims 44 and 68.

Thus, since Drysdale does not teach or suggest all of the limitations recited in independent claims 44 and 68, Applicant respectfully submits that Drysdale does not anticipate Applicant's invention as recited in independent claims 44 and 68.

Therefore, for the reasons given above, independent claims 44 and 68 are believed to be distinguishable from Drysdale and therefore are not anticipated nor rendered obvious by Drysdale.

Dependent claims 45-67 and 69-80 are believed to be allowable as depending from what are believed to be allowable independent claims 44 and 68 for the reasons given above. In addition, claims 45-67 and 69-80 recite further limitations that distinguish over the applied art.

For the reasons provided below, it is submitted that at least several of claims 45-67 and 69-80 recite further limitations that distinguish over the applied art.

Claim 45 recites that the portable display unit comprises a user identification system to determine an identity of a user operating the portable display unit. Drysdale, as understood by Applicant, does not teach or suggest this limitation and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests this limitation at paragraphs 0031 and 0032. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitation and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitation.

Claims 47 and 72 recite that the user identification system comprises a substrate reader, and reading a loyalty card of a user with a personal display unit, respectively. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0032 and 0033. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

Claims 48 and 73 recite that the user identification system includes the user interface of the portable display unit, and entering, by a user, a personal identification number and associated password into the portable display unit, respectively. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0032 and 0033. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claims 49 and 76 recite that the personalized information includes a personalized shopping list, and transmitting a personalized shopping list, respectively. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0032 and 0033. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claims 50 and 77 recite that the personalized information further includes information on products on the personalized shopping list that are located in proximity to the location of the portable display unit, and transmitting information on products on the personalized shopping list that are located in proximity to the location of the portable display unit, respectively. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0032 and 0033. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claim 54 recites that the information related to a user includes a shopping history of the identified user. Drysdale, as understood by Applicant, does not teach or suggest this limitation and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests this limitation at paragraphs 0032 and 0033. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitation and

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitation.

Claims 55 and 69 recite that the location tracking system further comprises a position calculating system for calculating position data relating to a location of the portable display unit in a commercial establishment using the unique identifier of the portable display unit, and calculating the location of the portable display unit system using the unique identification signal of the portable display unit, respectively. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claims 56 and 70 recite calculating the location of the portable display unit in a commercial establishment by at least one of biangulation techniques or triangulation techniques. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0032 and 0033 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claims 57 and 58 recite that the unique identifier of the portable display unit includes a radio frequency (RF) identification signal or an infrared identification signal. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claims 59 and 60 recite that the at least one receiver includes a plurality of transponders or a plurality of transceivers located at discrete locations throughout a commercial establishment.

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claim 62 recites that the portable display unit comprises a scanning device and the scanning device is configured to read product barcodes scanned by the identified user. Drysdale, as understood by Applicant, does not teach or suggest this limitation and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests this limitation at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitation and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitation.

Claims 65 and 80 recite transmitting the personalized information to the portable display unit as a web page using hypertext markup language. Drysdale, as understood by Applicant, does not teach or suggest these limitations and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests these limitations at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitations and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitations.

Claim 66 recites that the server computer is configured to permit a user to access the Internet using the portable display unit. Drysdale, as understood by Applicant, does not teach or suggest this limitation and does not discuss any such functionality. The Examiner alleges that Drysdale teaches or suggests this limitation at paragraphs 0025-0032 and in Fig. 1. However, Applicant cannot identify any description or discussion in the Examiner's cited passage that relates to the limitation and requests that the Examiner specifically identify the passage in Drysdale that the Examiner believes teaches the limitation.

In conclusion, it is respectfully submitted that claims 44-80 are not anticipated nor rendered obvious by Drysdale and are therefore allowable.

Application No.: 09/828,444
Attorney Docket No.: 20807-0003

Information Disclosure Statement

In the outstanding Office Action, the Examiner did not attach an Information Disclosure Statement submitted by Applicant on February 13, 2004 with Applicant's Response to the prior Office Action and received by the U.S. Patent and Trademark Office on February 17, 2004. Applicant requests that the Examiner confirm that the references listed in the Information Disclosure Statement have been considered by the Examiner and provide Applicant with a copy of the Information Disclosure Statement initialed by the Examiner indicating that the references were considered. If the Information Disclosure Statement has not been considered by the Examiner, Applicant requests that the Examiner consider the references and provide Applicant with a copy of the Information Disclosure Statement initialed by the Examiner. If necessary, Applicant can provide the Examiner with another copy of the Information Disclosure Statement submitted on February 13, 2004.

In addition, in Applicant's response to the prior Office Action, Applicant requested that the Examiner consider and acknowledge an Information Disclosure Statement submitted by Applicant on September 26, 2002. However, the Examiner still has not attached a copy of the Information Disclosure Statement submitted by Applicant on September 26, 2002. It is believed that the Examiner has considered this second Information Disclosure Statement based on the Examiner's application of a reference from the Information Disclosure Statement and the Examiner's characterization of that reference as "applicant admitted prior art" in a prior office action. Applicant requests that the Examiner confirm that the Information Disclosure Statement from September 26, 2002 has been considered by the Examiner and provide Applicant with a copy of the Information Disclosure Statement initialed by the Examiner as being considered. If the Examiner has not considered the Information Disclosure Statement, Applicant requests that the Examiner consider the references in the Information Disclosure Statement and provide Applicant with a copy of the Information Disclosure Statement initialed by the Examiner.

CONCLUSION

In view of the above, Applicant respectfully requests reconsideration of the Application and withdrawal of the outstanding rejections. As a result of the amendments and remarks presented herein, Applicant respectfully submits that claims 44-80 are not anticipated by nor

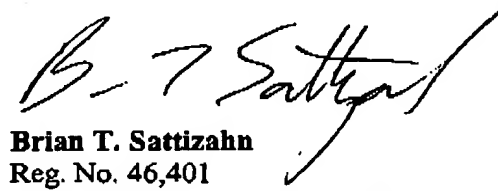
Application No.: 09/828,444
Attorney Docket No.: 20807-0003

rendered obvious by Drysdale and thus, are in condition for allowance. As the claims are not anticipated by nor rendered obvious in view of the applied art, Applicant requests allowance of claims 44-80 in a timely manner. If the Examiner believes that prosecution of this Application could be expedited by a telephone conference, the Examiner is encouraged to contact the Applicant.

The Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 50-1059.

Respectfully submitted,
MCNEES, WALLACE & NURICK

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